



# JOURNAL

JOURNAL OF THE CENTER FOR FAMILIES, CHILDREN & THE COURTS

VOLUME 2 ♦ 2000

## COURTS RESPONDING TO COMMUNITIES

### **CCJ/COSCA Joint Resolution in Support of Problem-Solving Courts**

*Conference of Chief Justices & Conference of State Court Administrators*

### **Fixing Families: The Story of the Manhattan Family Treatment Court**

*Robert Victor Wolf*

### **Domestic Violence Courts: Components and Considerations**

*Julia Weber*

### **Community Courts and Family Law**

*Deborah J. Chase, Hon. Sue Alexander & Hon. Barbara J. Miller*

### **California's Family Law Facilitator Program: A New Paradigm for the Courts**

*Frances L. Harrison, Deborah J. Chase & L. Thomas Surh*

### **Family-Focused Courts**

*Carol R. Flango*

## ISSUES FORUM

### **Attachment, Bonding, and Reciprocal Connectedness: Limitations of Attachment Theory in the Juvenile and Family Court**

*David E. Arredondo & Hon. Leonard P. Edwards*

### **The Nexus Between Child Maltreatment and Domestic Violence: A View From the Court**

*Hon. Cindy S. Lederman, Neena M. Malik & Sharon M. Aaron*

## PERSPECTIVES

### **Parens Patriae: The Federal Government's Growing Role of Parent to the Needy**

*Helen Cavanaugh Stauts*

### **Remarkable Experiences**

*Joshua M.*



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FAMILIES, CHILDREN & THE COURTS





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JUDICIAL COUNCIL OF CALIFORNIA ❖ ADMINISTRATIVE OFFICE OF THE COURTS



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## MISSION STATEMENT

The *Journal of the Center for Families, Children & the Courts* is a periodical dedicated to publishing a full spectrum of viewpoints on issues regarding children, families, and the interplay between these parties and the courts. Focusing on issues of national importance, the journal encourages a dialogue for improving judicial policy in California.

# Contents

## **xii** Editor's Note

## **xv** Contributors

### **COURTS RESPONDING TO COMMUNITIES**

## **2** CCJ/COSCA Joint Resolution in Support of Problem-Solving Courts

In 2000, the Conference of Chief Justices and the Conference of State Court Administrators issued a joint resolution recognizing that many complex legal and social problems defy solution through the traditional legal process. The CCJ/COSCA resolution calls for the use of therapeutic jurisprudence and problem-solving courts to address not only drug abuse, an area in which they have had much success, but also an expanded array of problems facing today's families and children.

## **5** Fixing Families: The Story of the Manhattan Family Treatment Court

*Robert Victor Wolf*

Wolf introduces the idea of responsive courts and describes the development and success of the Manhattan Family Treatment Court. This court applies the responsive model to the problem of parental drug abuse and its attendant harm to children and families.

## **23** Domestic Violence Courts: Components and Considerations

*Julia Weber*

A recent innovation, domestic violence courts address the issue of intimate partner violence in civil, criminal, juvenile, and family law cases. Expanding on issues raised as a result of a legislatively mandated study of their practices and procedures, the article considers the obligations of domestic violence courts to litigants and the larger community.

## **37** Community Courts and Family Law

*Deborah J. Chase, Hon. Sue Alexander & Hon. Barbara J. Miller*

The authors introduce the idea of a community court as an interaction among courts, social service agencies, and the community. They discuss several models, prominent among them the Midtown Community Court in Manhattan, before going on to apply community court principles to family law courts. They conclude by setting out a blueprint for a family community court.

## **61** California's Family Law Facilitator Program: A New Paradigm for the Courts

*Frances L. Harrison, Deborah J. Chase & L. Thomas Surh*

In 1997, California introduced its Family Law Facilitator Program to guide unrepresented family litigants through the judicial process. The authors, all active facilitators, discuss the program's development, including some of the hurdles it has overcome. They lay out extensive statistical evidence of its effects on pro se family litigation and suggest ways to approach remaining challenges.

## 99 Family-Focused Courts

*Carol R. Flango*

Taking a big-picture view, Flango examines the problems and possibilities presented by the development of unified family courts and reviews a set of principles with which to assess their performance.

## 109 Attachment, Bonding, and Reciprocal Connectedness: Limitations of Attachment Theory in the Juvenile and Family Court

*David E. Arredondo & Hon. Leonard P. Edwards*

The authors look at the impact of one type of community actor, the psychological expert, on child custody and visitation cases. They argue that experts could increase the value of their testimony by improving their methods of evaluating the quality of parent-child relationships.

## 129 The Nexus Between Child Maltreatment and Domestic Violence: A View From the Court

*Hon. Cindy S. Lederman, Neena M. Malik & Sharon M. Aaron*

A juvenile court judge and her colleagues describe their experiences in pioneering a court-led program to reduce the co-occurrence of domestic violence and child dependency and to provide support to battered mothers and their children.

## 139 *Parens Patriae*: The Federal Government's Growing Role of Parent to the Needy

*Helen Cavanaugh Stauts*

Stauts discusses two trends in the development of American child welfare policy. First, she discusses its gradual reorientation from the interests of society to the interests of the child. She then turns to the increasing role of the federal government in unifying and coordinating child welfare policy in its role as *parens patriae*.

## 153 Remarkable Experiences

*Joshua M.*

An alumnus of the Sacramento Neighborhood Accountability Board, a partnership between citizens and law enforcement, testifies firsthand to the contributions that such programs can make to individuals' lives and communities.

### ISSUES FORUM

### PERSPECTIVES

## Editor's Note

**T**he Judicial Council of California is pleased to present the 2000 issue of the *Journal of the Center for Families, Children & the Courts*. The journal's new title reflects

an important change that came about this year: the merger of the Center for Children and the Courts with the former Statewide Office of Family Court Services. With this realignment, the new Center for Families, Children & the Courts continues to pursue its mission of improving court proceedings involving children and families with expanded resources

and more effective coordination.

**Courts Responding to Communities:  
the responsiveness of courts to the  
needs of the communities they serve**

The journal's goal is to disseminate information concerning children and families in the California court system to the legal and social work communities and the public. Although focusing on issues of national

importance, the journal encourages a dialogue for improving judicial policy in California. The journal's editorial board is composed of a distinguished group of judges, academics, attorneys, and others from across the United States. All share an interest in improving court proceedings for children and families. The journal is published annually, with each issue addressing a specific aspect of the judicial process as it affects children and families.

The theme of this edition is *Courts Responding to Communities*: the responsiveness of courts, especially juvenile and family courts, to the needs of the communities they serve. The Judicial Council and the California courts, like their peers nationwide, have made it a priority to solve problems by cooperating with communities to devise new solutions, working with community organizations, and combining judicial and community resources. This effort has led to a number of innovative programs, including unified problem-solving courts; collaborations among courts, prosecutors, defense attorneys, probation departments, and social service providers; and court-based services for unrepresented litigants. The difficult and emotionally wrenching problems of family and juvenile law seem well suited to such collaborative solutions.

To increase awareness of the variety of possible responses and the complex challenges courts face, the journal has compiled articles by judges, attorneys, scholars, service providers, and system users—all participants in and observers of court and community collaborative efforts. Robert Wolf tells the story of the Manhattan Family Treatment Court, designed to address the frequent overlap of drug abuse and family problems. Julia Weber offers a general account of domestic violence courts and identifies important considerations for their improvement. Deborah Chase, Commissioner Sue Alexander, and Judge Barbara J. Miller describe the community court model and apply its principles to develop a prototype family community court. Next, Frances Harrison, Deborah Chase, and Thomas Surh discuss the expansion of the court's role in its assistance to unrepresented parties through the Family Law Facilitator program. Carol Flango rounds out the discussion by providing an overview of the structure and concerns of a family-focused court and suggesting principles of evaluation.

The second section of the journal is a forum for addressing important and timely issues relevant to children and families in the court system that fall outside the focus topic's scope. Here, Dr. David Arredondo and Judge Leonard Edwards examine the ways in which courts can deal with theoretical concepts in psychological expert testimony in child custody and visitation cases. Judge Cindy Lederman, Neena Malik, and Sharon Aaron share their thoughts and experiences on their collaborative program to reduce and prevent co-occurrent domestic violence and child maltreatment. In the third section, Perspectives, Helen Cavanaugh Stauts traces the evolution and federalization of America's system of child welfare provision. As a final note, Joshua M. gives his perspective on the benefits of his involvement in a community-based juvenile diversion program.

We hope that this journal continues to fulfill its mission as a useful information and research tool and provider of provoking perspectives. We are very excited about this important endeavor and welcome comments and suggestions for improvement.

—Audrey Evje







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# Contributors

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**Sharon M. Aaron, M.S.W.**, currently serves as consultant to the Miami–Dade County Dependency Court Intervention Program for Family Violence. In her former capacity as advocacy director, Ms. Aaron designed and implemented the advocacy intervention component of the program. Ms. Aaron now directs a national initiative funded by the Centers for Disease Control and Prevention that includes identification of intimate partner violence in health-care settings and has prevention and intervention components. In addition, Ms. Aaron is chair of the Dade County Alliance Against Domestic Violence and serves on the research committee of the Miami–Dade County Domestic Violence Fatality Review Team.

**Hon. Sue Alexander** is a family law commissioner in Oakland, California. She holds an M.F.C.C. degree and is a specialist in family law and in estate planning, trust, and probate certified by the State Bar of California, Board of Legal Specialization.

**David E. Arredondo, M.D.**, is the medical director of EMQ Children and Family Services and directs SOLOMON, an organization ([childrensprogram.org](http://childrensprogram.org)) that provides pro bono psychiatric consultation to the juvenile and family court judiciary and trainings for the juvenile justice and child welfare systems. SOLOMON reviews research on a broad range of topics with the primary goal of transferring knowledge of childhood development, mental health, and developmental traumatology to practitioners in the field. Principal concerns are the high number of mentally ill youth who are not receiving services and the disproportionate impact of these circumstances on economically disadvantaged youth and their families. Dr. Arredondo is a clinical instructor in the Department of Psychiatry and Behavioral Medicine at Stanford University School of Medicine. He is a graduate of Harvard College and Harvard Medical School and a Diplomate of the American Board of Psychiatry and Neurology.

**Deborah J. Chase, J.D., M.A.**, is a family law facilitator for Alameda County. She is a family law specialist certified by the State Bar of California, Board of Legal Specialization. She has a master of arts degree in clinical psychology and is presently completing her doctorate.

**Hon. Leonard P. Edwards** was appointed to the Superior Court of California, County of Santa Clara, in 1981 and has spent the majority of his judicial career on the juvenile court bench. He currently serves as supervising judge of the juvenile dependency court. Judge Edwards is vice-president of the National Council of Juvenile and Family Court Judges, chair of the Santa Clara County Domestic Violence Council, and a member of the Judicial Council of California. He and his wife, Professor Inger Sagatun-Edwards, are co-authors of *Child Abuse and the Legal System* (Wadsworth 1995).

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## *Contributors, continued*

**Carol R. Flango, M.A.**, is a court research associate in the Research Division of the National Center for State Courts. Since joining the NCSC in 1985, Ms. Flango has worked on the Court Statistics Project and other research projects relating to state court organization, the effectiveness of civil protection orders, adoption information improvement, central registries for child abuse and neglect, and integration of child and family legal proceedings. Among her current responsibilities, she directs projects in the family and appellate areas. She has authored several articles on families and the courts, a book on adoption, and was the lead author of *How Are Courts Coordinating Family Cases?* (NCSC 1999). Ms. Flango is a Fellow of the Court Executive Development Program.

**Frances L. Harrison**, family law facilitator for San Diego County, was previously a family law attorney in private practice for 14 years. She is a specialist in family law certified by the State Bar of California, Board of Legal Specialization. Ms. Harrison is a 1981 magna cum laude graduate of the University of San Diego School of Law, where she served as articles editor for the *San Diego Law Review*. She is the author of an article on child custody move-away cases, "Marriage of Burgess: The Supreme Court Disapproves a Decade of Appellate Analysis and Reasoning" (19 TRIAL BAR NEWS).

**Hon. Cindy S. Lederman** is administrative judge of the Miami-Dade County, Florida, juvenile court. Before her elevation to the circuit court, she was a leader of the team that created the Miami-Dade County Domestic Violence Court and served as that court's first administrative judge. Judge Lederman, along with Susan Schechter, conceived and developed the Dependency Court Intervention Program for Family Violence in her courtroom. Judge Lederman was also a member of the National Research Council's Committee on Family Violence Interventions. She now serves on the Board of Children, Youth, and Families of the National Research Council and Institute of Medicine as well as on the National Research Council's Juvenile Crime Panel. Judge Lederman has received numerous honors, including a fellowship from Zero to Three: The National Center for Infants, Toddlers, and Families in their "Leaders of the 21st Century" initiative.

**Neena M. Malik, Ph.D.**, is assistant professor of psychology at the University of Miami in Coral Gables, Florida. She is a Solnit Fellow for Zero to Three: The National Center for Infants, Toddlers, and Families. She conducts research and intervention with children and families at risk of or exposed to violence.

**Hon. Barbara J. Miller** was elected to the Superior Court of California, County of Alameda, in 1996. She is currently the supervising judge at the Hayward Hall of Justice. Judge Miller initiated the community court model for the Hayward Domestic Violence Court, over which she presided until January 2000. Prior to her current assignment, she heard criminal cases for two years in Hayward and family law cases for six years in both Oakland and Hayward.

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**Helen Cavanaugh Stauts** is an attorney with Sierra Adoption Services (SAS) in Northern California. Specializing in funding and services for the child with special needs, she also organizes and teaches educational seminars for foster parents, adoptive parents, and child welfare professionals. Other publications include “Understanding AAP: A Parent and Worker Guide,” “Who Will Speak for This Child,” and “Lay Person’s Guide to Completing California Adoption Forms,” available for order from the SAS Web site ([www.sierraadoption.org](http://www.sierraadoption.org)).

**L. Thomas Surh** is a family law facilitator for Alameda County. He is a graduate of Boalt Hall School of Law and for the past 25 years has been a legal aid attorney, a county bar administrator, and a solo practitioner in the areas of family law, immigration law, and juvenile dependency trials and appeals.

**Julia Weber, J.D., M.S.W.**, is a family violence specialist with the Judicial Council of California’s Center for Families, Children & the Courts. She previously worked as a mediator and children’s attorney and served as project coordinator for the Family Violence Council in St. Louis, Missouri. Ms. Weber has taught courses on violence against women and race, gender, and law.

**Robert Victor Wolf** is the director of communications at the Center for Court Innovation, the research and development arm of the New York State Unified Court System. A former newspaper reporter, columnist, and editor, he has written extensively about the criminal justice system. His work has included writing and editing the content for criminal justice–related Web sites, including [communityjustice.org](http://communityjustice.org). He is also the author of two books for young adults, *Capital Punishment* (Chelsea House 1997) and *The Jury System* (Chelsea House 1999).



## COURTS RESPONDING TO COMMUNITIES



*Photograph by Jason Doiy*

# Conference of Chief Justices Conference of State Court Administrators

## CCJ Resolution 22 COSCA Resolution 4 *In Support of Problem-Solving Courts*

**W**HEREAS, the Conference of Chief Justices and the Conference of State Court Administrators appointed a Joint Task Force to consider the policy and administrative implications of the courts and special calendars that utilize the principles of therapeutic jurisprudence and to advance strategies, policies and recommendations on the future of these courts; and

WHEREAS, these courts and special calendars have been referred to by various names, including problem-solving, accountability, behavioral justice, therapeutic, problem oriented, collaborative justice, outcome oriented and constructive intervention courts; and

WHEREAS, the findings of the Joint Task Force include the following:

- The public and other branches of government are looking to courts to address certain complex social issues and problems, such as recidivism, that they feel are not most effectively addressed by the traditional legal process;
- A set of procedures and processes are required to address these issues and problems that are distinct from traditional civil and criminal adjudication;
- A focus on remedies is required to address these issues and problems in addition to the determination of fact and issues of law;
- The unique nature of the procedures and processes encourages the establishment of dedicated court calendars;
- There has been a rapid proliferation of drug courts and calendars throughout most of the various states;
- There is now evidence of broad community and political support and increasing state and local government funding for these initiatives;
- There are principles and methods grounded in therapeutic jurisprudence, including integration of treatment services with judicial case processing, ongoing judicial intervention, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations. These principles and methods are now being employed in these newly arising courts and calendars, and they advance the application of the trial court performance standards and the public trust and confidence initiative; and
- Well-functioning drug courts represent the best practice of these principles and methods;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators hereby agree to:

1. Call these new courts and calendars “Problem-Solving Courts,” recognizing that courts have always been involved in attempting to resolve disputes and problems in society, but understanding that the collaborative nature of these new efforts deserves recognition.
2. Take steps, nationally and locally, to expand and better integrate the principles and methods of well-functioning drug courts into ongoing court operations.
3. Advance the careful study and evaluation of the principles and methods employed in problem-solving courts and their application to other significant issues facing state courts.
4. Encourage, where appropriate, the broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice to improve court processes and outcomes while preserving the rule of law, enhancing judicial effectiveness, and meeting the needs and expectations of litigants, victims and the community.
5. Support national and local education and training on the principles and methods employed in problem-solving courts and on collaboration with other community and government agencies and organizations.
6. Advocate for the resources necessary to advance and apply the principles and methods of problem-solving courts in the general court systems of the various states.
7. Establish a National Agenda consistent with this resolution that includes the following actions:
  - a. Request that the CCJ/COSCA Government Affairs Committee work with the Department of Health and Human Services to direct treatment funds to the state courts.
  - b. Request that the National Center for State Courts initiate with other organizations and associations a collaborative process to develop principles and methods for other types of courts and calendars similar to the 10 Key Drug Court Components, published by the Drug Courts Program Office, which define effective drug courts.
  - c. Encourage the National Center for State Courts Best Practices Institute to examine the principles and methods of these problem-solving courts.
  - d. Convene a national conference or regional conferences to educate the Conference of Chief Justices and Conference of State Court Administrators and, if appropriate, other policy leaders on the issues raised by the growing problem-solving court movement.
  - e. Continue a Task Force to oversee and advise on the implementation of this resolution, suggest action steps, and model the collaborative process by including other associations and interested groups.

*Adopted as Proposed  
by the Task Force on  
Therapeutic Justice of  
the Conference of Chief  
Justices in Rapid City,  
South Dakota, at the  
52nd Annual Meeting  
on August 3, 2000*

